



## **FEDERAL RESERVE SYSTEM**

### **Agency Information Collection Activities: Announcement of Board Approval under Delegated Authority and Submission to OMB**

**AGENCY:** Board of Governors of the Federal Reserve System.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation NN (FR NN; OMB No. 7100-0353).

#### **FOR FURTHER INFORMATION CONTACT:**

Federal Reserve Board Clearance Officer – Nuha Elmaghrabi – Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829.

Office of Management and Budget (OMB) Desk Officer – Shagufta Ahmed – Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17<sup>th</sup> Street, NW, Washington, DC 20503, or by fax to (202) 395-6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files. These documents also are available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears above.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to

collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

**Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection:**

*Report title:* Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation NN.

*Agency form number:* FR NN.

*OMB control number:* 7100-0353.

*Frequency:* Event generated.

*Respondents:* Banking institutions.

*Estimated number of respondents:* Reporting: 1; recordkeeping: 2; disclosure: 2.

*Estimated average hours per response:* Reporting: 16; recordkeeping: 183; disclosure: 787.

*Estimated annual burden hours:* Reporting: 16; recordkeeping: 366; disclosure, 1,574; total: 1,956.

*General description of report:* Regulation NN includes certain reporting, recordkeeping, and disclosure requirements for banking institutions that elect to provide foreign currency exchange services to retail consumers. The regulation applies to state member banks, uninsured state-licensed branches of foreign banks, financial holding companies, bank holding companies, savings and loan holding companies, agreement corporations, and

Edge Act corporations (collectively, “banking institutions”) that engage in retail foreign exchange transactions.

*Legal authorization and confidentiality:* The reporting, recordkeeping, and disclosure requirements in Regulation NN are authorized pursuant to section 2(c)(2)(E) of the Commodity Exchange Act (CEA) (7 U.S.C. 2(c)(2)(E)). Section 2(c)(2)(E) of the CEA prohibits a United States financial institution and its related persons under the supervision of a Federal regulatory agency, such as the Board, from offering or entering into certain types of foreign exchange transactions with retail customers except pursuant to a rule or regulation prescribed by the appropriate Federal regulatory agency allowing the transaction under such terms and conditions as the Federal regulatory agency shall prescribe.

Regulation NN’s reporting requirement (12 CFR 240.4), recordkeeping requirements (12 CFR 240.7, 240.9(b)(2), and 240.13(a)) and disclosure requirements (240.5(a), 240.6, 240.7, 240.9(b)(2), 240.10, 240.13(a) & (c)-(d), 240.15, and 240.16(a) and (b)) are mandatory for banking institutions that engage in retail foreign exchange transactions.

The reporting requirement under section 240.4 of Regulation NN requires a banking institution to provide a prior written notice to the Board that includes information concerning customer due diligence; the policies and procedures for haircuts to be applied to noncash margin; information concerning new product approvals; and information on addressing conflicts of interest. The disclosure of this information is reasonably likely to result in substantial competitive harm to the banking institution, and therefore, may be kept confidential under exemption (b)(4) of the Freedom of

Information Act (FOIA), which protects “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential” (5 U.S.C. 552(b)(4)). In addition, the prior written notice must also include a resolution of the banking institution’s board of directors certifying that the institution has written policies, procedures, and risk measurement and management systems and controls in place to ensure retail foreign exchange transactions are conducted in a safe and sound manner and in compliance with Regulation NN. Generally, this resolution by the board of directors would not be accorded confidential treatment. If confidential treatment is requested by a banking institution, the Board will review the request to determine if confidential treatment is appropriate.

The recordkeeping and disclosures required under sections 240.5(a), 240.6, 240.7, 240.9(b)(2), 240.10, 240.13(a) & (c)-(d), 240.15, and 240.16(a) and (b) of Regulation NN generally are not submitted to the Board. Accordingly, no confidentiality issues will normally arise under the FOIA. In the event such records or disclosures are obtained by the Federal Reserve through the examination or enforcement process, such information may be kept confidential under exemption 8 of the FOIA, which protects information contained in or related to an examination of a financial institution (5 U.S.C. 552(b)(8)).

*Current actions:* On May 17, 2019, the Board published a notice in the *Federal Register* (84 FR 22494) requesting public comment for 60 days on the extension, without revision, of the Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation NN. The comment period for this notice expired on July 16, 2019. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, August 7, 2019.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

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